

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|----------------------------|
| UNITED STATES OF AMERICA | : | |
| | : | Criminal No. 1:01-CR-00237 |
| | : | |
| v. | : | Judge Yvette Kane |
| | : | |
| | : | (ELECTRONICALLY FILED) |
| KEITH SHEARER | : | |

MOTION FOR EXTENSION TO
CONTINUE SENTENCING

AND NOW comes the defendant, Keith Shearer, through his attorney, Thomas A. Thornton of the Federal Public Defender's Office and files this Motion to Continue Sentencing and in support thereof, the following is averred:

1. On May 14, 2003, Keith Shearer was indicted by a Grand Jury for knowingly discharging illegal pollutants into waters of the United States without a permit in violation of 33 U.S.C. § 1311 (a), 1319 (c) (1) (A) and 18 U.S.C. § 2; intimidation or force against witnesses in violation of 18 U.S.C. § 1512 (b) (2) and

2; bank fraud in violation of 18 U.S.C. § 1344 and 2; making false statements for the purpose of obtaining loans in violation of 18 U.S.C. § 1014 and 2 and 21 other violations of federal law.

2. On June 2, 2003, Mr. Shearer appeared before Magistrate Judge J. Andrew Smyser for his initial appearance and pled not guilty to the charge.

3. By order of the same date, the Federal Public Defender's Office was appointed to represent Keith Shearer.

4. On April 13, 2004, Mr. Shearer appeared before Judge Yvette Kane and entered a plea guilty to Count 1 and Count 2 of the Information. Sentencing in this matter was deferred pending the completion of a presentence investigation.

5. The sentencing guideline range for Mr. Shearer is driven by the amount of loss to the government.

6. The Indictment was based on loans given to Mr. Shearer by the Farm Services Agency.

7. If Mr. Shearer was unable to pay off the loans, as required by the loan contract, the resulting shortfall would be the amount used to establish the loss figure for guideline purposes.
8. Since the guilty plea, Mr. Shearer has been liquidating his property in an effort to prove that he can pay off the loans as required.
9. On January 18, 2005, Mr. Shearer after the sale of crops and other items, tendered a check for \$235,000 to the Farm Service Agency.
10. The remaining total owed on the Farm Service Agency loan is \$124,986.65.
11. Mr. Shearer's farm equipment is being sold to fund the final part of this debt.
12. The closing on the farm equipment is Friday, January 28, 2005.
13. Sentencing in this matter is scheduled for Monday, January 21, 2005.

14. In an effort to avoid any problems which may result due to the close proximity of the final settlement date and sentencing, it is respectfully requested that a two week continuance of sentencing be granted.

15. The government concurs in the granting of this motion as the parties wish to appear before the court with all sentencing issues fully resolved.

16. The government concurs with the granting of this motion.

WHEREFORE, it is respectfully requested that This Honorable Court to continue sentencing for an additional thirty (30) days.

Respectfully submitted,

Date: January 26, 2005

/s/ Thomas A. Thornton
THOMAS A. THORNTON, ESQUIRE
Asst. Federal Public Defender
Attorney ID #PA44208
100 Chestnut Street, Suite 306
Harrisburg, PA 17101
Tel No: (717) 782-2237
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Attorney for Keith Shearer

CERTIFICATE OF SERVICE

I, Thomas A. Thornton, of the Federal Public Defender's Office do hereby I certify that I served the foregoing **MOTION TO CONTINUE SENTENCING**, via Electronic Case Filing, or by placing a copy in the United States mail, first classes in Harrisburg, Pennsylvania, addressed to the following:

Martin C. Carlson, Esquire
United States Attorney's Office
Federal Building, Room 217
228 Walnut Street
Harrisburg, PA 17108
E-mail: Martin.Carlson@USDOJ.gov

Keith Shearer
500 Bairs Road
York, PA 17404

Date: January 26, 2005

/s/ Thomas A. Thornton
THOMAS A. THORNTON, ESQUIRE
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CERTIFICATE OF CONCURRENCE

I, Thomas A. Thornton, of the Federal Public Defender's Office certify that on November 18, 2004, Assistant United States Attorney Martin C. Carlson and he stated that the government would concur in the foregoing motion.

Date: January 26, 2005

/s/ Thomas A. Thornton
THOMAS A. THORNTON, ESQUIRE
Asst. Federal Public Defender
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ORDER OF COURT

AND NOW this _____ day of January, 2005, upon consideration of the within Motion to Continue Sentencing and, **IT IS HEREBY ORDERED** that the motion is **GRANTED**. Sentencing in the above-captioned action is rescheduled from January 31, 2005 to _____ in Courtroom No. 4, Eighth Floor, Federal Building, Third and Walnut Streets, Harrisburg, Pennsylvania.

BY THE COURT:

YVETTE KANE
UNITED STATES DISTRICT COURT JUDGE